

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,
v.
JASHUA BAPTISTA,
Defendant.

Case No. [10-cr-00050-PJH-1](#)

**ORDER DENYING MOTION TO
REDUCE SENTENCE**

Re: Dkt. No. 133

Before the court is the motion of Jashua Baptista ("movant") to modify and reduce his sentence pursuant to 18 U.S.C. § 3582(c)(2) in light of Amendment 782 to the United States Sentencing Guidelines Manual. Effective November 1, 2014, Amendment 782 revises the Drug Quantity Table in U.S.S.G. § 2D1.1, applicable to sentences imposed for certain drug-related convictions. Although Amendment 782 may be applied retroactively to previously-sentenced defendants, the court may not order a reduced term of imprisonment based on Amendment 782 unless the effective date of the court's order is November 1, 2015, or later. U.S.S.G. § 1B1.10(e)(1).

The Probation Office has prepared and filed a sentence reduction investigation report, to determine whether movant is entitled to a reduction under Amendment 782. Doc. no. 135. The Probation Office concludes that movant's sentence cannot be further reduced because his original sentence was the statutory mandatory minimum. The Probation Office represents that the government agrees that movant is not entitled to a reduction. Furthermore, the Federal Public Defendant's Office has filed statement of non-intervention, stating that, upon review of the motion, it did not seek appointment and

1 did not seek to intervene on movant's behalf with respect to his pro se motion to reduce
2 sentence. Doc. no. 134.

3 Because movant was sentenced to the mandatory minimum prison sentence of
4 ten years for conspiracy to distribute, and possess with intent to distribute,
5 methamphetamine, in violation of Title 21, United States Code, Sections 846 and
6 841(b)(1)(A)(viii), no relief is available under Amendment 782. See U.S.S.G. § 1B1.10,
7 cmt. n. 1(A) ("a reduction in the defendant's term of imprisonment is not authorized under
8 18 U.S.C. 3582(c)(2) and is not consistent with this policy statement if: (i) None of the
9 amendments listed in subsection (d) is applicable to the defendant; or (ii) an amendment
10 listed in subsection (d) is applicable to the defendant but the amendment does not have
11 the effect of lowering the defendant's applicable guideline range because of the operation
12 of another guideline or statutory provision (e.g., a statutory mandatory minimum term of
13 imprisonment)."). The motion for sentence reduction is therefore DENIED.

14 **IT IS SO ORDERED.**

15 Dated: February 25, 2015



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17 PHYLLIS J. HAMILTON
United States District Judge